

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

May 9, 2008

Interim Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawai'i

Board Members:

SUBJECT: REVIEW AND APPROVAL OF PROJECTS RECOMMENDATION BY
THE LEGACY LAND CONSERVATION COMMISSION FOR
FUNDING FROM THE FISCAL YEAR 2008 LEGACY LAND
CONSERVATION PROGRAM (LAND CONSERVATION FUND)

SUMMARY:

Pursuant to H.R.S., §173A-2.5, the Legacy Land Conservation Commission has produced recommendations to the Board of Land and Natural Resources on project selection for Fiscal Year 2008 (FY08) funding from the Legacy Land Conservation Program (LLCP). Pursuant to H.R.S., §173A-5, the Department has sought and received the consultation of the Senate President and Speaker of the House of Representatives. This submittal summarizes the results of these processes for the Board's review and requests approval of the Board for projects to receive FY08 LLCP funding based on these results.

BACKGROUND:

Legacy Land Conservation Commission Recommendations:

For the Fiscal Year 2008 application cycle, the Legacy Land Conservation Program (LLCP) advertised \$4.7 million in project funding from the Land Conservation Fund (LCF) for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations, county agencies, and State agencies applied for funding for 12 separate resource land acquisition projects for the October 17, 2007, application deadline. The Legacy Land Conservation Commission recommended the following six applicants (in order of priority) for funding:

Wai'anae Community Re-development Corporation (MA'O Organic Farm) at \$737,300 for the acquisition of 11 acres in Lualualei Valley, Wai'anae, Island of O'ahu;

The County of Hawai‘i at \$1,500,000 for the acquisition of 550.871 acres in Kāwā, District of Ka‘ū, Island of Hawai‘i;

Kaua‘i Public Land Trust at \$700,000 for the acquisition of 20.532 acres fronting Kāhili Beach, North Shore, Island of Kaua‘i;

Maui Coastal Land Trust at \$994,724 for the acquisition of 128 acres in Nu‘u Makai, southeast shore, Island of Maui; and

Ke `Aupuni Lokahi, Inc. (Moloka‘i Enterprise Community) at \$767,976 for the acquisition of 196.40 acres to be held by Moloka‘i Land Trust, in Kawaikapu, Mana‘e, Island of Moloka‘i.

The Commission recommended the first three projects for full funding and recommended the last two projects for partial funding due to a shortage of available funds. The last two projects ranked equally and the total amount requested by these two projects exceeded the remaining amount available for award by about 18%. Therefore, the Commission reduced the amounts awarded to each project by approximately 18%.

The Commission recommended that, in the event that any recommended project is unable to accept its awarded funds, the abandoned funds shall go to funding the last two projects at the amounts they had originally requested: Maui Coastal Land Trust at \$1,214,300 and Ke `Aupuni Lokahi, Inc., at \$937,500. In the event that funding is available past this point, the Commission recommended funding projects according to the order of their ranking on the attached list (Attachment II).

Legislative Consultation

On May 5, 2008, Department staff and the Commission Chair met with Senate President Colleen Hanabusa, Speaker of the House of Representatives Calvin Say, Senator Russell Kokubun and Representative Kenneth Ito to seek the consultation of these legislators regarding the Commission’s recommendations, pursuant to H.R.S. Chapter 173A. The legislators agreed with the Commission’s recommendations regarding the funding of the five grants listed above, and, additionally, recommended the acquisition, by the State, of donated conservation or agricultural easements over properties being acquired by nonprofits (Attachment III).

DISCUSSION:

The following discussion describes the details surrounding each of the Legacy Land Conservation Commission’s recommended projects.

Wai‘anae Community Re-development Corporation (MA‘O Organic Farm) at \$737,300 for the acquisition of 11 acres in Lualualei Valley, Wai‘anae, Island of O‘ahu.

Wai'anae Community Re-development Corporation (WCRC) requested funding for a parcel of land, tax map key (TMK) 8-6-008:004, in Lualualei Vally, Oahu, for the protection of its agricultural values. The parcel is being acquired from the Takeno Takahashi Trust and WCRC has secured \$250,000 in matching private funds for this project. WCRC is purchasing the property for the expansion of MA'O Organic Farm operations and intends to manage the property according to its organic farm plan.

WCRC's strategic mission is to plan and implement community-based economic development projects in the Leeward Oahu community of Waianae that create employment opportunities through education and empowerment. WCRC is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

The County of Hawai'i at \$1,500,000 for the acquisition of 550.871 acres in Kāwā, District of Ka'ū, Island of Hawai'i.

The County of Hawaii is requesting funding for three parcels of land, TMK (3) 9-5--016:025, TMK (3) 9-5-016:006, TMK (3) 9-5-017:005, at Kawa Bay, District of Kau, on the Southeast tip of the Island of Hawaii, for the preservation of watershed, coastal, habitat, cultural, recreational, and open space values. A two-acre spring-fed freshwater intertidal pond and numerous springs are located on the property, along with Ke'eku Heiau, portions of the Ala Kahakai trail, and endangered Hawksbill turtle nesting sites. The County of Hawaii is purchasing the land from the Edmund C. Olson Trust No. II, and is bringing approximately \$6,180,000 in matching federal, county, and land value donation funds to the project.

Kaua'i Public Land Trust at \$700,000 for the acquisition of 20.532 acres fronting Kāhili Beach, North Shore, Island of Kaua'i.

The Kaua'i Public Land Trust (KPLT) is requesting funding for the purchase of a parcel, TMK (4) 5-1-005:016, fronting Kahili (otherwise known as Rock Quarry) beach located on the north shore of Kaua'i, for the protection of its watershed, coastal, and habitat values. The property includes bluffs, coastal dunes, intertidal wetland, and lowland forest. KPLT is purchasing the property from Louise Zweben and has secured \$2,759,181 in matching federal funds for the acquisition. KPLT plans to develop a management plan in cooperation with the adjacent Kilauea Point National Wildlife Refuge to manage the area for endangered species recovery, watershed protection, and native species habitat restoration.

KPLT's mission is working with others to use land conservation tools to preserve Kaua'i's places of the heart. NTBG is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

Maui Coastal Land Trust at \$994,724 for the acquisition of 128 acres in Nu'u Makai, southeast shore, Island of Maui.

The Maui Coastal Land Trust (MCLT) is requesting funding for the purchase of portions of two parcels of land, TMK (2) 1-8-001:001, TMK (2) 1-7-004:003, in Nu'u Makai, located on Maui's south east shore between Kanaio and Kaupo at the foot of Haleakala, for the protection of coastal, wetland, habitat, historical, and cultural values. Resources include 5,000 feet of pristine coastline, burial sites, petroglyphs, remnant walls, and a fishing shrine. MCLT is purchasing the property from Kaupo Ranch and has secured \$4,790,000 in matching federal grant and land value donation funds. MCLT plans to work closely with the Kaupo community to draft a management plan that reflects the need to both protect and restore the fragile ecosystem and take into account the community's values and vision.

MCLT's mission is to preserve and protect coastal lands in Maui Nui (Maui, Moloka'i and Lana'i for the benefit of the natural environment and of current and future generations. MCLT is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

Ke 'Aupuni Lokahi, Inc. (Moloka'i Enterprise Community) at \$767,976 for the acquisition of 196.40 acres to be held by Moloka'i Land Trust, in Kawaikapu, Mana'e, Island of Moloka'i.

Ke 'Aupuni Lokahi, Inc., (KAL) is requesting funding for the purchase of a parcel of land, TMK (2) 5-7-005:021, mauka of Kamehameha V. Highway, Mile 17, bordering on the Kawaikapu/Kainalu stream, Mana'e, Moloka'i, for the for the protection of watershed, cultural, and scenic values. The property ranges from sea level to 2,100 ft elevation and includes the Kawaikapu waterfall. KAL is purchasing the property from Gregory and Tracy Gordon, and is contributing \$351,000 in matching private funds. KAL is applying on behalf of the Moloka'i Land Trust (MLT), the intended holder of the property. MLT intends to implement access and management plans and to create an inventory of cultural sites. The mission of the MLT is to protect and restore the land, natural and cultural resources of Moloka'i, and to perpetuate the unique Native Hawaiian traditions and character of the island for the benefit of the future generations of all Moloka'i, particularly Native Hawaiians.

The mission of KAL is to protect the island of Moloka'i and its environmental, cultural and historic resources, and to improve the general welfare of Moloka'i's people by supporting and sponsoring projects consistent with these goals. KAL is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

Recommendations of the Senate President and the Speaker of the House

To clarify this policy issue in the future, the Department proposed language allowing the Board to require as a condition for receipt of fund that the grantee provide a conservation easement or covenant to preserve the interests of the State. That proposal was included in SB3102, CD1 amendments to H.R.S. 173A, subject to a final floor vote and the Governor's approval.

As a response to the legislators' concerns about the perpetual protection of the properties acquired by the program, DOFAW is proposing stronger deed restrictions for properties acquired with the assistance of Legacy Land grants. These deed restrictions, attached to this submittal as Attachment IV, go beyond the payback provisions of HRS 173A-10, and meet the intent of the legislators to negotiate affirmative interest in the lands acquired under this program.

These deed restrictions would be placed on the deed at the time of conveyance to awardee, and would also be a condition of the grant agreements formed with awardees. Similar to federal land acquisition grant programs, these deed restrictions refer to the grant agreement that BLNR executes with grant recipients. The restrictions would allow the BLNR, upon disposition of the property, to require a deed restriction or covenant to be placed on the property, or require conservation easement or agricultural easement under Chapter 198, Hawaii Revised Statutes to be placed on the property.

The Division notified the grantees of these recommendations and advised them if they had concerns or opposed the restrictions, or had alternative language to suggest, they submit written or oral comments to the Board on their position.

Although these new provisions are only now being negotiated with the awardees at this stage in the process, the Division does believe the Board has the discretion to require affirmative interest in the lands acquired with public funds as recommended by the Senate President and the Speaker of the House.

RECOMMENDATIONS:

1) That the Board authorize the Chairperson to enter into agreements and encumber FY08 funds with the listed grant recipients for the following grants:

Wai'anae Community Re-development Corporation (MA'O Organic Farm) at \$737,300 for the acquisition of 11 acres in Lualualei Valley, Wai'anae, Island of O'ahu;

The County of Hawai'i at \$1,500,000 for the acquisition of 550.871 acres in Kāwā, District of Ka'ū, Island of Hawai'i;

Kaua'i Public Land Trust at \$700,000 for the acquisition of 20.532 acres fronting Kāhili Beach, North Shore, Island of Kaua'i;

Maui Coastal Land Trust at \$994,724 for the acquisition of 128 acres in Nu'u Makai, southeast shore, Island of Maui; and

Ke `Aupuni Lokahi, Inc. (Moloka'i Enterprise Community) at \$767,976 for the acquisition of 196.40 acres to be held by Moloka'i Land Trust, in Kawaikapu, Mana'e, Island of Moloka'i.

totaling \$4,700,000 from the Hawai'i State Land Conservation Fund, subject to:


- a. compliance with H.R.S., Chapter 173A;
- b. compliance with H.R.S., Chapter 343;
- c. execution of a Grant Agreement with the BLNR;
- d. certification of an appraisal for each project by the Department;
- e. insertion of the deed language set forth in Attachment IV into the deed as a condition of contractual agreements with the grant recipients;
- f. approval of the Grant Agreement and of the Deed by the Attorney General's office;
- g. the approval of the Governor.

2) Approve as a contingency the Commission's recommendation that, in the event that any recommended project is unable to accept its awarded funds, these funds shall go toward funding the last two projects at the amounts they had originally requested: Maui Coastal Land Trust at \$1,214,300 and Ke 'Aupuni Lokahi, Inc., at \$937,500. In the event that funding is available past this point, the Commission recommended funding projects according to the order of their ranking on the attached list (Attachment II).

3) Authorize the Department to obtain State-contracted appraisals as needed to determine fair market value of the fore stated interests in property.

4) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the grants and acquisitions mentioned above.

Respectfully submitted,



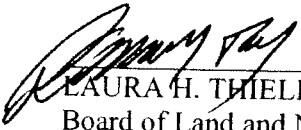
PAUL J. CONRY, Administrator
Division of Forestry and Wildlife

Attachments:

- Attachment I: Hawaii Revised Statutes, Chapter 173A (2007)
- Attachment II: Table: Fiscal Year 2008 Legacy Land Conservation Program Funding Requests & Recommended Grants

- Attachment III: Letter of consultation from the Senate President and the Speaker of the House of Representatives.
- Attachment IV: Deed restrictions for FY08 Legacy Land Conservation Program award recipients
- Attachment V: Location & Parcel Maps

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

CHAPTER 173A - ACQUISITION OF RESOURCE VALUE LANDS

(This is an unofficial copy Chapter 173A, Hawaii Revised Statutes. Official text of Chapter 173A can be found in the Hawaii Revised Statutes and its supplements.)

Section

173A-1 Purpose

173A-2 Definitions

173A-2.4 Legacy land conservation commission

173A-2.5 Responsibilities of the legacy land conservation commission

173A-2.6 Land acquisition priorities

173A-3 Resource land acquisition plan

173A-4 Authority to acquire and convey

173A-4.5 Appraisal of land

173A-5 Land conservation fund

173A-6 Acquisition of land

173A-7 Administration and management

173A-8 Development of land acquired by the board

173A-9 Grants to state agencies, counties, and nonprofit land conservation organizations

173A-10 Proceeds of sale, lease, or other disposition

173A-11 General powers

173A-12 Federal and other grants

Cross References

Important agricultural lands, see §§205-41 to 52.

[§173A-1] Purpose. The State has provided for the regulation of land use and development throughout the State under the provisions of the land use law, and has provided through that law for the controlled regulation of land use and development of lands which have natural, environmental, recreational, scenic or historic value. However, these lands, though protected by the land use law, may in many instances require placement under public ownership and management in order that they can be made accessible to all of the people of the State. The purpose of this chapter is to provide for the acquisition and management of such lands in those instances in which such acquisition and management are considered necessary by the State. [L 1973, c 77, §1]

§173A-2 Definitions. As used in this chapter:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Land" means the earth, water, and air, above, below, or on the surface, and includes easements and rights in land, and any improvement on land.

"Land having value as a resource to the State" includes land having natural, environmental, recreational, scenic, cultural, agricultural production, or historic value, and may also include park and trail systems that provide access to any such land. [L 1973, c 77, §2; am L 2005, c 156, §3]

[§173A-2.4] Legacy land conservation commission. (a) There is established within the department of land and natural resources a legacy land conservation commission.

The commission shall consist of nine members, with at least one member from each of the counties, who shall be appointed in the manner and serve for the term set forth in section 26-34 as follows:

(1) Four of the members of the commission shall be persons possessing scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology;

(2) One member shall be a person possessing membership in an environmental organization organized in the State;

(3) One member shall be a person possessing membership in a land conservation organization organized in the State;

(4) One member shall be a person possessing membership in a statewide agricultural association; and

(5) One member shall be a person knowledgeable about native Hawaiian culture. The chairperson of the natural area reserves system commission shall serve as an ex officio voting member and the chairperson of the commission. The members shall receive no compensation for their services on the commission but shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in the discharge of their duties.

(b) Any action taken by the commission shall be by a simple majority of its members. Five members of the commission shall constitute a quorum.

(c) Except as otherwise provided in this chapter, the commission shall be subject to sections 26-34, 26-35, 26-35.5, and 26-36.

(d) The commission may adopt rules pursuant to chapter 91 to carry out its duties. [L 2006, c 254, pt of §1]

[§173A-2.5] Responsibilities of the legacy land conservation commission. The responsibilities of the commission shall include, but not be limited to:

(1) Advising the department and the board on any proposal, public or private, for the acquisition of any interest or rights in land having value as a resource to the State;

(2) Advising the department and the board on any requests for grants from the fund to a qualifying state or county agency or nonprofit land conservation organization for the preservation of lands having value as a resource to the State;

(3) Recommending to the board the acquisition of interests or rights in certain lands having value as a resource to the State; and

(4) Reviewing and adopting rules relating to the criteria it applies in advising the department and the board and making recommendations to the board regarding land acquisitions and grants made pursuant to this chapter. [L 2006, c 254, pt of §1]

[§173A-2.6] Land acquisition priorities. In advising the department and the board, the commission shall give the following lands priority in its recommendations for acquisitions:

(1) Lands having exceptional value due to the presence of:

(A) Unique aesthetic resources;

(B) Unique and valuable cultural or archaeological resources; or

(C) Habitats for threatened or endangered species of flora, fauna, or aquatic resources;

- (2) Lands that are in imminent danger of development;
- (3) Lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value;
- (4) Lands providing critical habitats for threatened or endangered species that are in imminent danger of being harmed or negatively impacted;
- (5) Lands containing cultural or archaeological sites or resources that are in danger of theft or destruction; and
- (6) Lands that are unique and productive agricultural lands. [L 2006, c 254, pt of §1]

§173A-3 Resource land acquisition plan. In consultation with the senate president and speaker of the house of representatives, the department shall prepare and, from time to time, revise a plan for the acquisition of land having value as a resource to the State. This plan shall guide the board in acquiring such land in the exercise of its powers under this chapter. In preparing this plan, the department may institute studies relating to the need for such land and shall consider any plan relating to the acquisition of such land that has been prepared by any state or county agency. [L 1973, c 77, §3; am L 2006, c 254, §2]

§173A-4 Authority to acquire and convey. (a) In consultation with the senate president and speaker of the house of representatives, the board may acquire, by purchase, gift, or the exercise of the power of eminent domain as authorized by chapter 101, any land having value as a resource to the State. Such acquisition is hereby declared to be for a public use.

(b) The board may, subject to chapter 171, in consultation with the senate president and speaker of the house of representatives, and with the approval of the governor, sell, lease, or otherwise convey any such land subject to terms and conditions that it deems appropriate and that will ensure that the transferee shall not use the land in a manner that is inconsistent with the purposes for which it was acquired by the board. The terms and conditions shall run with the land and shall be binding on the transferee's heirs, successors, and assigns. The board may seek enforcement of the terms and conditions in any court of appropriate jurisdiction. [L 1973, c 77, §4; am L 2006, c 254, §3]

[§173A-4.5] Appraisal of land. (a) Notwithstanding section 171-30, the appraisal of land having value as a resource to the State and acquired by the State under this chapter may be performed as follows:

(1) The board may review, approve, and accept any existing appraisal prepared on behalf of a nonprofit organization if:

(A) The appraisal was completed within one year before the decision by the board to approve the acquisition of land; and

(B) The board finds that the appraisal was performed according to applicable and accepted professional standards for land appraisal; or

(2) The board may contract for an independent appraisal from no more than three disinterested appraisers who shall follow applicable and accepted professional standards for land appraisal.

The board shall submit the appraisal to the attorney general for review and approval before it acquires the land having value as a resource to the State.

(b) No land shall be purchased for a sum greater than the highest value fixed by any appraisal accepted or performed under subsection (a); provided that this limitation shall not apply to any acquisition that is made by condemnation.

(c) After the land having value as a resource to the State has been acquired or the State abandons the acquisition, the appraisal reports shall be made available for inspection and copying by the public.

(d) Anything contained in this section notwithstanding, no appraisal shall be required under this section in the event that any interest in land having value as a resource to the State is donated to the State. [L 2007, c 158, §1]

§173A-5 Land conservation fund. (a) A land conservation fund, hereinafter called "fund", is hereby established.

(b) The proceeds from the sale of any general obligation bonds, authorized and issued for purposes of this chapter, shall be deposited in or credited to the fund.

(c) Any net proceeds or revenue from the operation, management, sale, lease, or other disposition of land or the improvements on such land, acquired or constructed by the board under the provisions of this chapter, shall also be deposited in or credited to the fund.

(d) Ten per cent of all taxes imposed and collected by section 247-1 shall be deposited in or credited to the fund every year.

(e) The fund shall be administered and managed by the department.

(f) The acquisition of interests or rights in land having value as a resource to the State for the preservation of:

- (1) Watershed protection;
- (2) Coastal areas, beaches, and ocean access;
- (3) Habitat protection;
- (4) Cultural and historical sites;
- (5) Recreational and public hunting areas;
- (6) Parks;
- (7) Natural areas;
- (8) Agricultural production; or
- (9) Open spaces and scenic resources,

constitutes a public purpose for which public funds may be expended or advanced.

(g) The fund shall be used for:

(1) The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements;

(2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State; and

(3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year.

(h) Based on applications from state agencies, counties, and nonprofit land conservation organizations, the department, in consultation with the senate president and speaker of the house of representatives, shall recommend to the board specific parcels of land to be acquired, restricted with conservation easements, or preserved in similar fashion. The board shall review the selections and approve or reject the selections

according to the availability of moneys in the fund. To be eligible for grants from the fund, state and county agencies and nonprofit land conservation organizations shall submit applications to the department that contain:

- (1) Contact information for the project;
- (2) A description of the project;
- (3) The request for funding;
- (4) Cost estimates for acquisition of the interest in the land;
- (5) Location and characteristics of the land; and
- (6) Other similar, related, or relevant information as may be determined by the department.

(i) For applications approved by the board, the board may acquire land having value as a resource to the State, pursuant to section 173A-4, or the board may award grants from the fund to the qualifying state or county agencies or nonprofit land conservation organizations for the preservation of the real property. Where the recipient of a grant is a county agency or nonprofit land conservation organization, the board shall require additional matching funds of at least twenty-five per cent of the total project costs. Matching funds may be in the form of:

- (1) Direct moneys;
- (2) A combination of public and private funds;
- (3) Land value donation;
- (4) In-kind contributions; or
- (5) Any combination of the above,

and evidence of these matching funds shall be made available from the qualifying entities prior to distribution of the fund grant.

(j) The board shall:

- (1) Track amounts disbursed from the fund;
- (2) Prepare an annual report to be transmitted to the governor and the legislature at least twenty days prior to the convening of each regular session of the legislature. The annual report shall include:
 - (A) A summary of all interests or rights in land acquired during the preceding fiscal year;
 - (B) A summary of what value each newly acquired land has as a resource to the State;
 - (C) Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
 - (D) A financial report for the preceding fiscal year; and
 - (E) Objectives and budget projections for the following fiscal year; and
- (3) Make copies of the annual report available to the public. [L 1973, c 77, §5; am L 2005, c 156, §4; am L 2006, c 254, §4; am L 2007, c 145, §1]

[§173A-6] Acquisition of land. The board shall prepare an annual program for the purchase or acquisition by eminent domain of land having value as a resource to the State. [L 1973, c 77, §6]

[§173A-7] Administration and management. The board shall, subject to chapter 171, administer, maintain, and manage any land acquired under the provisions of this chapter,

may charge such fees for the use of any such land as it considers to be reasonable, and may construct on such land any improvement which it deems to be necessary to carry out the purposes of this chapter. The board may adopt and from time to time amend regulations implementing the provisions of this chapter. [L 1973, c 77, §7]

[§173A-8] Development of land acquired by the board. On the land acquired under this chapter the board may undertake any development which is consistent with the land use law and all other laws applicable to the land and development.

For purposes of this section, "development" includes (1) any building or mining operation; (2) any material change in use, intensity of use, or appearance of any structure or land; or (3) the division of land into two or more parcels. [L 1973, c 77, §8]

§173A-9 Grants to state agencies, counties, and nonprofit land conservation organizations. After consultation with the senate president and speaker of the house of representatives, and subject to the approval of the governor, the board may make grants to state agencies, counties, and nonprofit land conservation organizations from available funds for the purchase or acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the purchase of permanent conservation easements under chapter 198, and approved for purchase or acquisition by the board. Any land so acquired by any state agency or county may be sold, leased, or otherwise disposed of, subject to chapter 171, with the prior written approval of the board. Any land acquired by any nonprofit land conservation organization under this chapter may be sold, leased, or otherwise disposed of with the prior written approval of the board. Any permanent conservation easement established under this section that includes partnership with a federal land conservation program may be transferred only as provided by rules of the federal program. [L 1973, c 77, §9; am L 2005, c 156, §5; am L 2006, c 254, §5]

§173A-10 Proceeds of sale, lease, or other disposition. Whenever any such land is sold by any state agency, county, or nonprofit land conservation organization, that portion of the net proceeds (sale price less actual expenses of sale) of such sale equal to the proportion that the grant by the State bears to the original cost of the land or other property shall be paid to the State. In the event any such land or other property is leased, rented, or otherwise disposed of, that portion of the rental or proceeds equal to the proportion that the grant by the State bears to the original cost of the land or other property shall be paid to the State. Any proceeds received by the State pursuant to this section that were originally paid out of the fund pursuant to section 173A-9 shall be redeposited in or credited to the fund. This section shall not apply to rents of property protected by permanent conservation easements established by grants from the fund. [L 1973, c 77, §10; am L 2005, c 156, §6]

[§173A-11] General powers. In carrying out its functions under this chapter the board may do all things necessary, useful, and convenient in connection with the acquisition, administration, maintenance, and management of lands having value as a resource to the State, subject to all applicable laws, and may provide any necessary assistance to any county in the acquisition of land having value as a resource to the State.

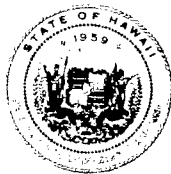
The authority to acquire land which is conferred by this chapter is in addition and supplemental to any authority to acquire land which is conferred on the board by any other chapter. [L 1973, c 77, §11]

[§173A-12] Federal and other grants. The board and any county may comply with any condition, regulation, restriction, or requirement imposed by the United States or any other governmental agency, or by any person in any program providing grants or other funds for the acquisition of land having value as a resource to the State. [L 1973, c 77, §12]

2007-2008 Applicants to the LLCP – LLCC Rankings

Rank	Agency/ organization:	Holder:	Location:	TMK:	Size:	Match \$:	Amount recommended:	Total Estimated Project Cost:
(1)	Wai'anae Community Re-development Corporation (MA'O Organic Farm)	***	86-148 Puhawai Rd., Lualualei Valley, Wai'anae, Hawai'i	8-6-008:004	11 acres	\$250,000	\$737,300	\$987,300
(1)	County of Hawai'i	***	Kāwā Bay, District of Ka'ū, County of Hawai'i on the Southeast tip of the Island of Hawai'i	(3) 9-5--016:025, (3) 9-5-016:006, (3) 9-5-017:005	550.871 acres	\$6,180,000	\$1,500,000	\$7,680,000
(2)	Kaua'i Public Land Trust	***	Parcel fronting Kāhili (Rock Quarry) Beach located on the north shore of Kaua'i, within proposed Kilauea Coastal Preserve	(4) 5-1-005:016	20.532 acres	\$2,759,181	\$700,000	\$3,459,181
(3)	Maui Coastal Land Trust	***	Nu'u Makai, located on Maui's south east shore between Kanaio and Kaupō at the foot of Haleakala	(2) 1-8-001:001 (portion), (2) 1-7-004:003 (portion)	128 acres	\$4,790,000	\$994,724 (requested \$1,214,300) *	\$6,004,300
(3)	Ke `Aupuni Lokahi, Inc. (Molokai Enterprise Community)	MLT	Mauka of Kamehameha V Hwy, Mile 17, on both the east and west sides of the Kawaikapu/Kainalu stream, Mana'e, Moloka'i. Property ranges from sea level to 2,100 ft elevation including Kawaikapu waterfall	(2) 5-7-005:021	196.40 acres	\$351,000	\$767,976 (requested \$937,500) *	\$1,288,500
(4)	The Trust for Public Land	State	Lapakahi, North Kohala, ahupua'a of Kaipuha'a and Lamaloloa, southern end of Lapakahi State Historical Park, Island of Hawai'i	(3) 5-7-001:0011	17.05 acres	\$844,000	\$1,700,000	\$2,544,000
(5)	DLNR/DOFAW	***	Hamakua hillside (Pu'u O Ehu), adjacent Hamakua Marsh Wildlife Sanctuary, Kailua, O'ahu	(1) 4-2-003:017	65.562 acres	\$723,000	\$447,000	\$1,205,000
(6)	The Trust for Public Land	OHA	Honouliuli Preserve is located on the eastern slope of the Wai'anae Mountain Range above the Pearl Harbor Aquifer, Island of O'ahu	9-2-005:013	3,582 acres (portion of a larger 4,969.14 acre parcel)	\$5,300,000 to \$5,800,000	\$1,000,000	\$6,300,000 to \$6,800,000
(7)	Hawaii Nature Center	***	In Makiki Valley on O'ahu at the hairpin turn on Makiki Heights Drive	2-5-020:007	18,000 sq feet	\$605,000	\$1,800,000	\$2,405,000
(7)	County of Hawaii	***	Makai of Highway 11 in the Punalu'u District of Ka'ū, on the southeastern coast of the Big Island of Hawai'i	(3) 9-6-001:006	5.992 acres	\$130,000	\$125,000	\$255,000
(7)	County of Hawaii	***	Makai of Highway 11 in the Punalu'u District of Ka'ū, on the southeastern coast of the Big Island of Hawai'i	(3) 9-6-001:003	3.573 acres	\$80,000	\$75,000	\$155,000
(7)	County of Hawaii	***	Makai of Highway 11 in the Punalu'u District of Ka'ū, on the southeastern coast of the Big Island of Hawai'i	(3) 9-6-001:002	1.953 acres	\$25,000	\$50,000	\$77,500

* awards reduced by approximately 18.08253% due to shortage of available funds



HAWAII STATE LEGISLATURE
STATE CAPITOL
HONOLULU, HAWAII 96813

March 11, 2008

Ms. Laura Thielen, Chairperson
and Members of the
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

RE: Legacy Land Grants

Dear Chairperson Thielen:

We write to inform you and members of the Board of Land and Natural Resources that pursuant to the consultation requirements of Chapter 173A, Hawaii Revised Statutes, we are satisfied with the Legacy Land Conservation Commission's recommended grants for fiscal year 2007-08 for the acquisition of lands utilizing the proceeds in the Land Conservation Fund.

After our review of the recommendations with you, members of the Commission and Commission staff, we agree that the five highest ranked grant proposals should be funded. Those grants are:

- (1) Waianae Community Re-development Corporation (MA'O Organic Farm) at \$737,300 for the acquisition of 11 acres in Lualualei Valley, Waianae, Island of Oahu;
- (2) County of Hawaii at \$1,500,00 for the acquisition of 550.871 acres in Kawa, District of Kau, Island of Hawaii;
- (3) Kauai Public Land Trust at \$700,000 for the acquisition of 20.532 acres fronting Kahili Beach, North Shore, Island of Kauai;
- (4) Maui Coastal Land Trust at \$994,724 for the acquisition of 128 acres in Nuu Makai, southeast shore, Island of Maui; and
- (5) Ke Aupuni Lokahi, Inc. (Molokai Enterprises Community) at \$767,976 for the acquisition of 196.40 acres to be held by Molokai Land Trust, in Kawaikapu, Manae, Island of Molokai.

As we did last year, we again would like to express our position on the matter of preserving the State's interest in these land acquisitions. As this program utilizes public funds, we believe that the State should negotiate affirmative interest in the lands acquired. We were

RECEIVED
LAND DIVISION

2008 MAR 17 A 10:41


MAUI COUNTY
STATE OF HAWAII

3/17 cy: HDLO, KODO, MDLO

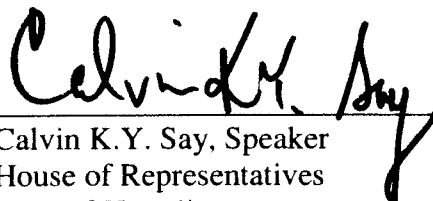
Ms. Laura Thielen, Chairperson
and Members of the
Board of Land and Natural Resources
March 11, 2008
Page 2

pleased to hear at our consultation meeting that you and the Commission will pursue voluntary granting of appropriate easements (conservation, agricultural, etc.) for these and future grant awards. It is also our understanding that you will attempt to memorialize this practice in rules.

Very truly yours,



Colleen Hanabusa, President
Senate
State of Hawaii



Calvin K.Y. Say, Speaker
House of Representatives
State of Hawaii

Deed Restriction Language for Fiscal Year 2008 Legacy Land Conservation Program Awardees

"The property has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number _____, dated _____, and is subject to all of the terms and conditions of the grant agreement. Title of the property conveyed by this deed shall vest in the [awardee], subject to disposition instructions from the State of Hawaii, Department of Land and Natural Resources ("DLNR"), or its successor agencies. The property shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes.

The [awardee], for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this property without the written approval of the DLNR or its successor agencies. Upon notice from [awardee] that it intends to dispose of, encumber the title or other interests in, or convert the use of the property, the DLNR may:

1. Require [awardee] to place on the property, a deed restriction or covenant to protect the resource values for which [awardee] was awarded a LLCP grant, to an appropriate land conservation organization or county, state, or federal resource conservation agency. The deed restriction or covenant shall run with the land and be recorded with the appropriate state agency.
2. Require to be placed on the property, a conservation easement or agricultural easement under Chapter 198, Hawaii Revised Statutes, to an appropriate land conservation organization or county, state, or federal resource conservation agency, that shall run with the land and be recorded with the appropriate state agency.

The [awardee] further covenants that if the property is sold, leased, rented, or otherwise disposed of by the [awardee], that portion of the net proceeds (sale price less actual expenses of sale) of such sale, rental, or proceeds equal to the proportion that the state grant bears to the original cost of the property shall be paid to the State of Hawaii."

Wai‘anae Community Re-development Corporation (MA‘O Organic Farm) at \$737,300
for the acquisition of 11 acres in Lualualei Valley, Wai‘anae, Island of O‘ahu

Location & Parcel Maps

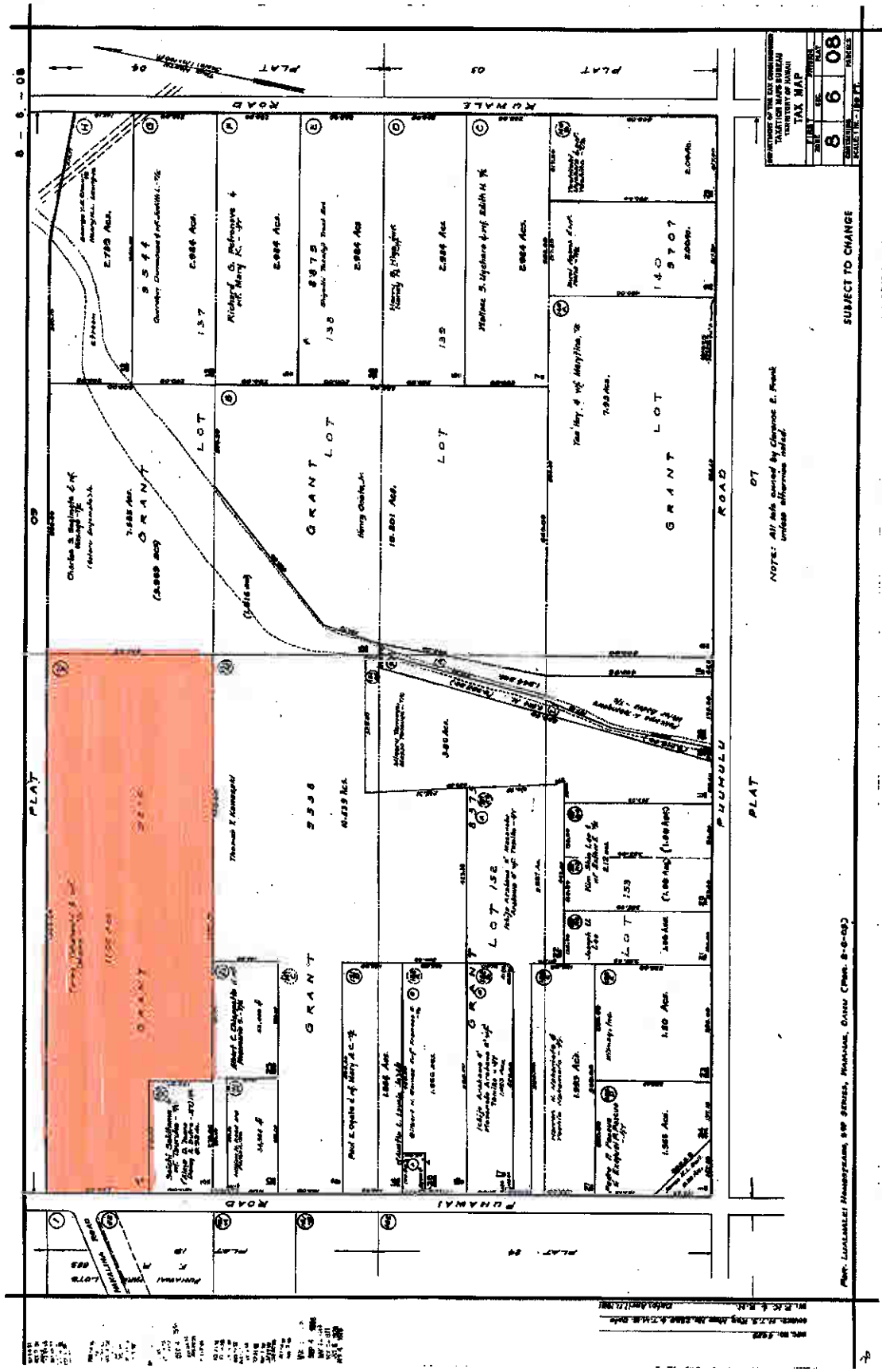


LOCATION MAP
86-163 PUKAIAHI RD
LUALUAEI VALLEY
WAI'ANAES

Save trees. Go green!
Download Google Maps for mobile
Text maps to 486453



PARCEL MAP
86-148 PUNAHU K.D.



FOR LUNARILE HAWAIIAN, 800 SERIES, HAWAIIAN, ORDER FORM 8-0-000

SUBJECT TO CHANGE

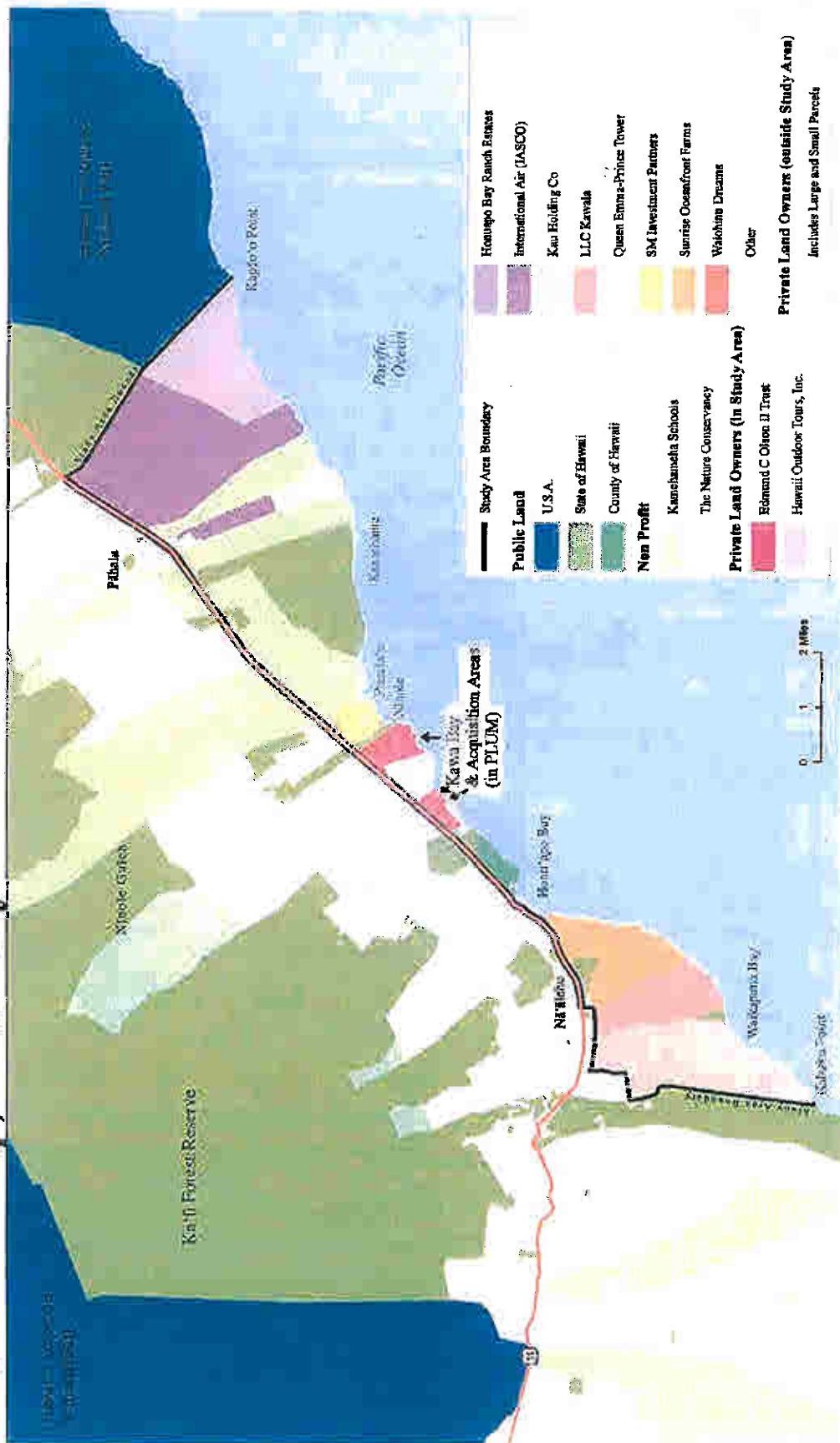
NOTE: All lots owned by Clarence E. Frank unless otherwise noted.

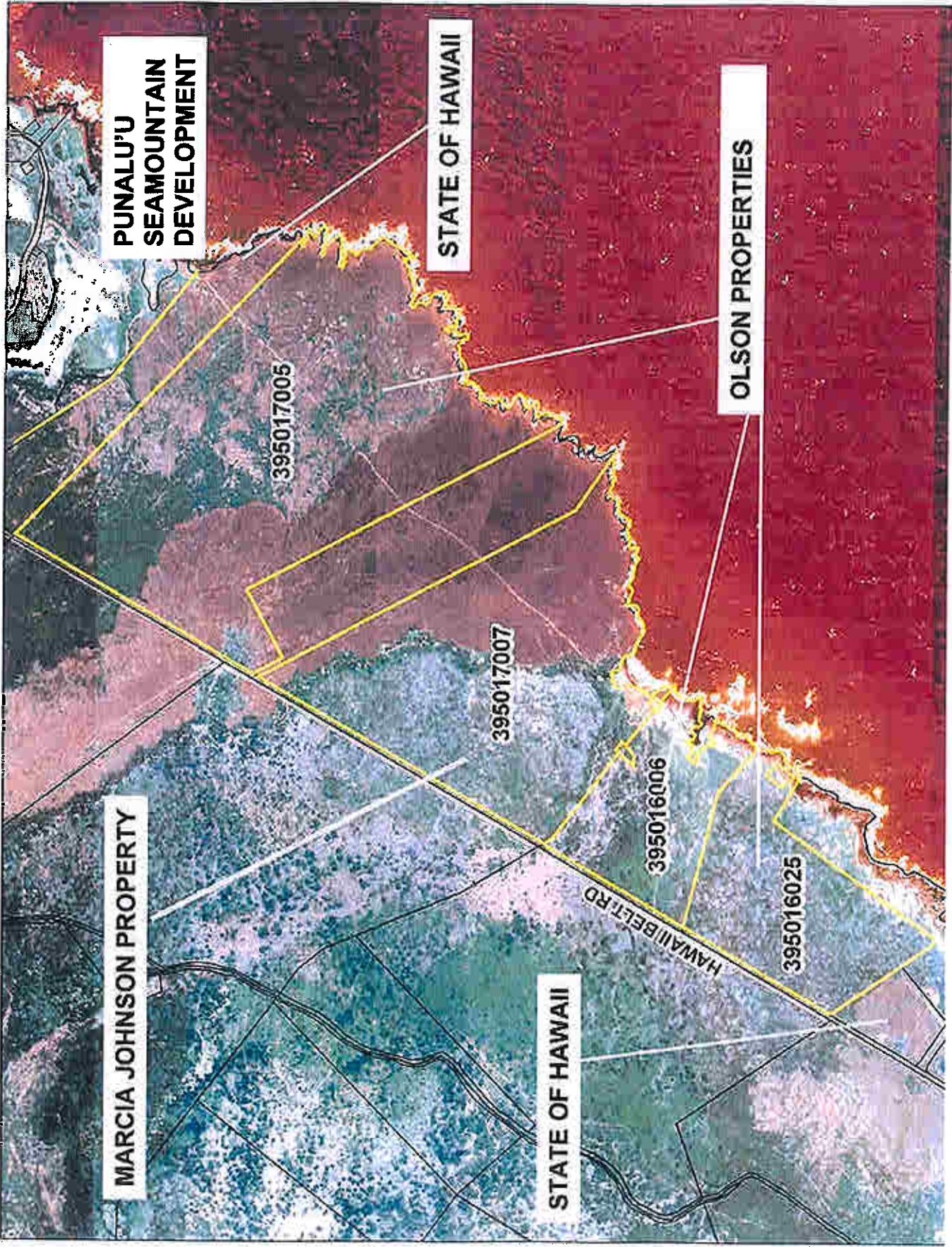
TAX MAP			
LOT	AREA	OWNER	REMARKS
8	6	08	

The County of Hawai'i at \$1,500,000 for the acquisition of 550.871 acres in Kāwā,
District of Ka'ū, Island of Hawai'i

Location & Parcel Maps



[illegible]



PUNALU'U
SEAMOUNTAIN
DEVELOPMENT

STATE OF HAWAII

OLSON PROPERTIES

MARCIA JOHNSON PROPERTY

STATE OF HAWAII

395017005

395017007

395016006

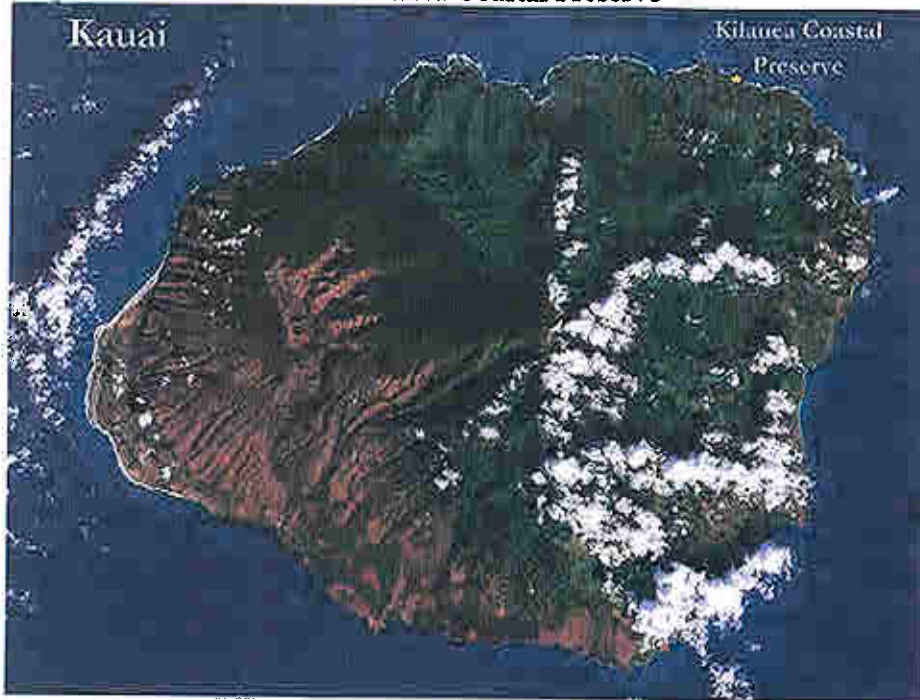
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HAWAII BELT RD

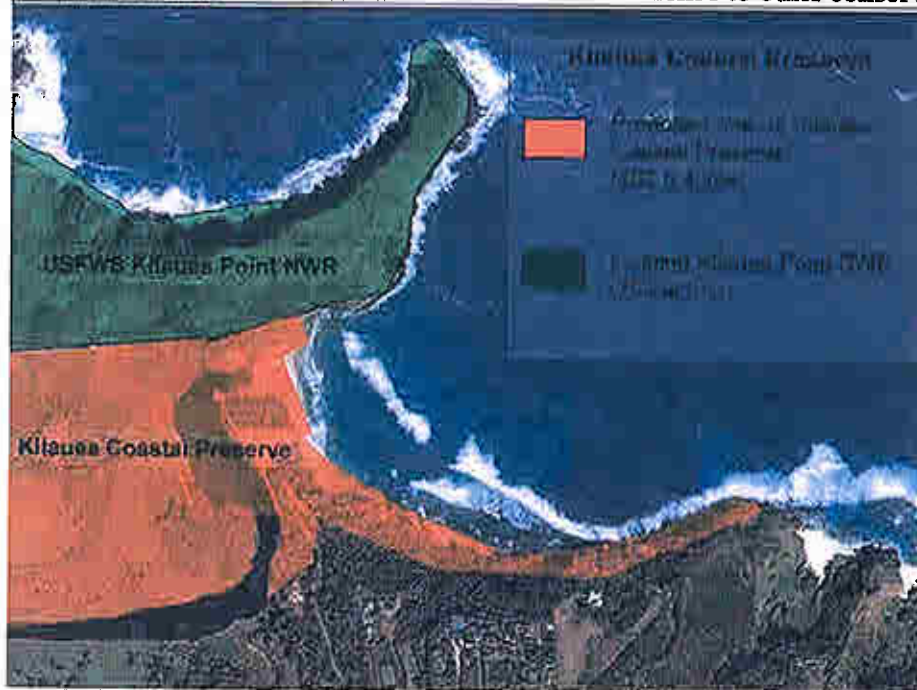
Kaua'i Public Land Trust at \$700,000 for the acquisition of 20.532 acres fronting Kāhili Beach, North Shore, Island of Kaua'i

Location & Parcel Maps

Map 1. General location of Kilauea Coastal Preserve

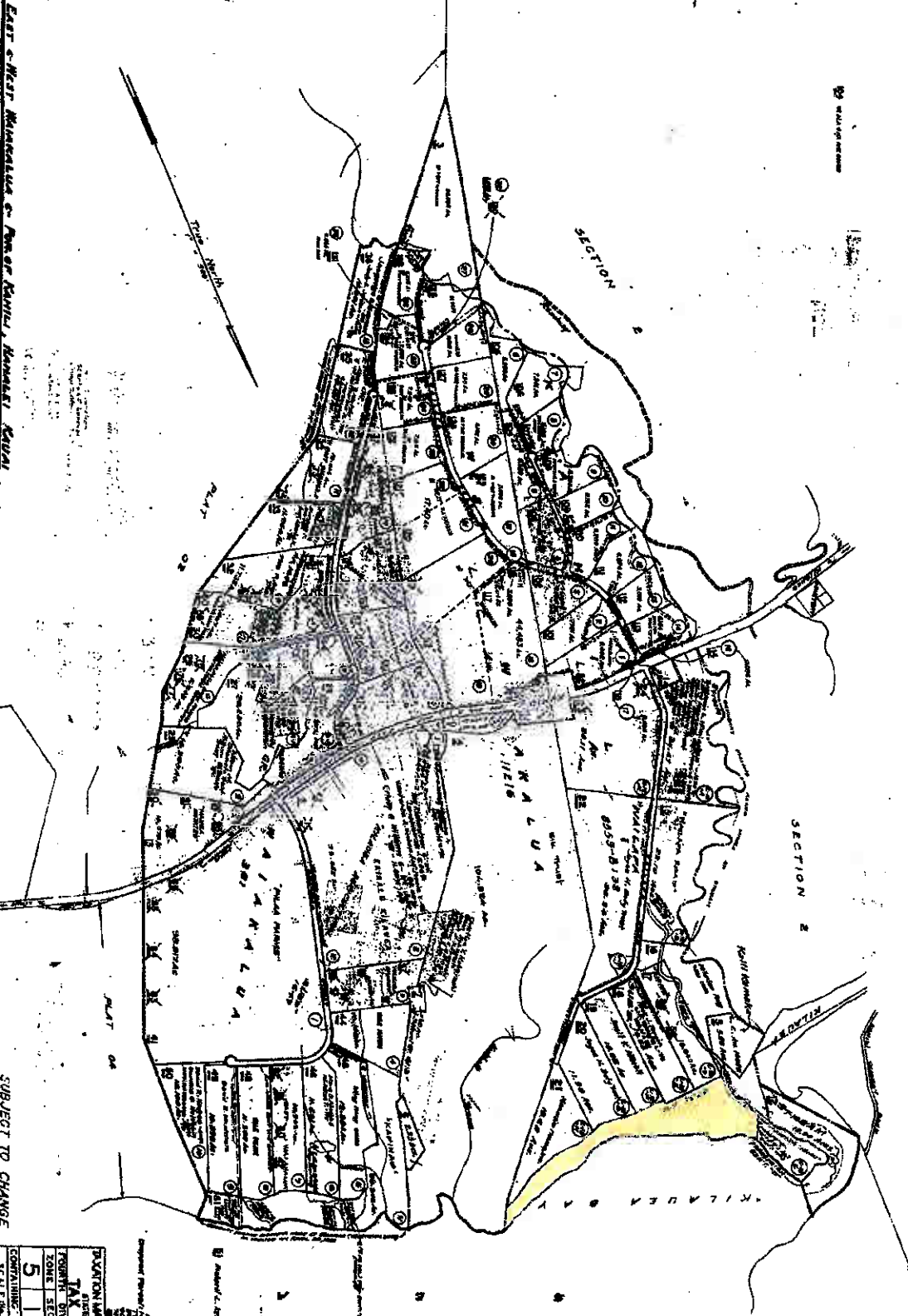


Map 2. Location of Kilauea Coastal Preserve in reference to other conservation lands



Map No. 508A
 Source: The Maps Bureau
 By: F.M.D. & H.M. Nov. 1936

EAST & WEST MANAULUA & PART OF KAHALA, KAHALA, KAUAI



SUBJECT TO CHANGE

NATIONAL LANDS AREA
 TAX MAP
 FORD'S DIVISION
 ZONE SEC. PLAT
 5 1 05
 CONTAINING PARCELS
 SCALE 1" = 400'

Maui Coastal Land Trust at \$994,724 for the acquisition of 128 acres in Nu‘u Makai,
southeast shore, Island of Maui

Location & Parcel Maps

Maui Coastal Land Trust, October 2007



Maui Coastal Land Trust, October 2007



LLCF Proposal

Maui Coastal Land Trust, October 2007



FIGURE 3. Aerial View of Nu`u Makai parcel proposed for acquisition (78 acres, outlined in yellow).

Ke `Aupuni Lokahi, Inc. (Moloka'i Enterprise Community) at \$767,976 for the acquisition of 196.40 acres to be held by Moloka'i Land Trust, in Kawaikapu, Mana'e, Island of Moloka'i

Location & Parcel Maps

Kawaikapu Ranch, East Moloka'i

